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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,230	03/26/2001	Koji Nakamura	NEC01P015-ts	5805
30743	7590	12/19/2005	EXAMINER	
WHITHAM, CURTIS & CHRISTOFFERSON, P.C. 11491 SUNSET HILLS ROAD SUITE 340 RESTON, VA 20190			LE, KHANH H	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/816,230

Applicant(s)

NAKAMURA, KOJI

Examiner

Khanh H. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/18/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/16/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

1. This Office Action is responsive to the Correspondence received 9/18/05. Claims 46-55 are pending. Claim 46 is independent.

Claim Rejections - 35 USC § 112

2. The rejections of Claims 46-47 under 35 U.S.C. 112, second paragraph are withdrawn following the amendments.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 46-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spiegel et al, US 6466918, in view of "Snap to the Possibilities' Contest Launches at Snap.com." PR Newswire, p3777, June 7, 1999, DIALOG(R)File 621, Record # 01891596, herein Snap.com, and further in view of Barney et al, US 6,556,992, herein Barney.

As to claim 46, Spiegel discloses

A method of attracting customers in a website supplied from a server connected to a plurality of clients via a network, said server including an article database and a customer information database, customers contributing articles (reviews) to the article database and also evaluating articles in the article database, the method comprising the steps of:

receiving a customer request for displaying the website (see at least Figs. 5 and associated text, items 520, 540)
transmitting website rendering data (see at least Figs. 5 and associated text, items 520, 540)
receiving by the server a customer request to enter a page in the website via the network (see at least Figs. 5 and associated text, items 520, 540);
transmitting by the server data of existing article headers to the client of the requesting customer (books categories) ;
displaying at the client of the requesting customer a list of article titles and headlines (list of books per category) ;
when the requesting customer at the client selects an article to be read from the list displayed, acquiring by the server details of the selected article among articles stored in the article database and transmitting acquired details together with a bulletin board display form to the client of the requesting customer, said bulletin board display form having buttons to be used by customers to vote for and against the article (voting on particular books by clicking) ;
when a customer votes for or against the displayed article, adding one vote for or against the article (book category) to a vote counter for the article in the article database (see at least Figs. 5 and associated text, items 520, 540)

and adding one vote to a vote number counter of the customer who has voted, among the customer information stored in customer information database (see at least Figs. 5 , item 550 and associated text)

Spiegel does not specifically disclose electronically giving a customer who contributed the displayed article a predetermined benefit depending on an accumulated count of the vote counter for the article.

However , Spiegel discloses a valuable service by offering books or articles for viewing. Further " Snap.com, in analogous arts, discloses an internet portal service where authors are encouraged to submit and post their articles to be voted on by others. It is implied the votes are counted. To encourage participation, the winning authors of the voting contest get rewards. Snap.com's purpose is to grow fast as a community based site (see whole article) .

It would have been obvious to one skilled in the art at the time the invention was made to add Snap.com's method of rewarding the contributors of articles to Spiegel to encourage submission of articles or books for the benefit of the whole community of persons interested in those articles and/or topics as disclosed by Snap.com.

Further Spiegel does not specifically disclose electronically giving a customer who evaluates a plurality of articles in the article database a predetermined benefit depending a number of articles evaluated within a predetermined time period even though Spiegel discloses that voting is good for a period only before being counted.

However Barney discloses, in an Internet environment, rewarding reviewers of articles (patents) based on the quality (veracity/accuracy as viewed by others :see at least col.29 lines 31 to col.30 lines 9; especially col. 29 lines 59-62) and popularity (which is based implicitly on a count of the number of times other users access the reviews :see at least col.29 lines 31 to col.30 lines 9; especially col. 29 lines 63-67) of the articles that they posted.

It would have been obvious to one skilled in the art at the time the invention was made to add Barney's rewarding of the evaluators to Spiegel to encourage participation of reviewers as taught by Barney.

As to claims 47-48, Spiegel in view of Snap.com and Barney (hereinafter SSB) does not specifically disclose initially acquiring a customer ID and password when a request to enter a page from the customer is received, . initially transmitting from the server to the customer client a form for entering a customer ID and password, determining if a customer ID and password have been acquired and, if not, prompting the customer to press an ID registration application button, in response to the ID registration application button being pressed, transmitting from the server to the customer client a form for registering a new customer, receiving by the server new customer information transmitted from the customer client via the network and issuing an ID to the customer.

Official Notice is taken that it is well-known that all the above cited steps are well-known in the art to allow participation of users in on-line transactions and therefore obvious to add to the SSB system to effect the steps disclosed as discussed above.

As to "thereafter, whenever a customer votes for or against an article, correlating the customer with the article in the article database", Spiegel discloses such (see at least Fig. 5, item 550 and associated text).

As to claims 49, SSB does not specifically disclose a bulletin board page sent by the server to a customer client includes a contribution button, the method further comprising the steps of:

responding to pressing the contribution button by a customer by
transmitting by the server via the network to the customer client a contribution form,
receiving by the server a contributed article submitted using the contribution form.

However Official Notice is taken that all the above cited steps are well-known and would have been obvious to one skilled in the art to add to the SSB system to effect receiving the articles as taught by Snap.com and practice the method as disclosed by SSB. As to storing the contributed article in the article database, Spiegel discloses such and it's also implied in Snap.com.

As to claims 50, Snap.com discloses giving a customer who contributes an article a predetermined benefit depending on a level of reaction (whether they like) from customers who evaluate the article. It would have been obvious to one skilled in the art at the time the invention was made to add that reward scheme to SSB as a reward calculation method as taught by Snap.com.

As to claim 51, Barney discloses rewards of the reviewers who are also authors of the reviews (articles) as a quantitative value (monetary compensation) depending on a number of answers (popularity based on number) from customers who have evaluated the article. It would have been obvious to one skilled in the art at the time the invention was made to add that reward scheme to SSB as a reward calculation method as taught by Barney.

As to claims 52-53, Spiegel discloses the quantitative value is a multivalued quantitative value method and also totaling quantitative values of over a predetermined period ((see at least Figs.6-10 and associated text)

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as a method to evaluate (analogous to rewarding) an article or category. It would have been obvious to one skilled in the art at the time the invention was made to use the same evaluation methods as disclosed by SPIEGEL to reward the customer who contributed the article.

As to claim 54, SPIEGEL discloses the server provides a plurality of bulletin boards for respective predetermined categories, the method further comprising the step of prompting a customer at a client to select from among said plurality of bulletin boards (see at least Fig. 1A and associated text).

As to claims 55, SSB does not specifically disclose rejecting by the server an evaluation of an article from a customer who has previously evaluated said article.. However Official Notice is taken that it is well-known to reject allow one vote per voter only on any matter to be evaluated, such as in approving a state expenditure, to ensure system fairness. Thus it would have been obvious to one skilled in the art at the time the invention was made to add this feature to the SSB system to ensure fairness of the evaluation system.

Response to Arguments

5. Applicant's arguments have been fully considered but they are not persuasive.

First, Applicants' challenge to the Officially Noticed facts are defective. To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, *which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art*. MPEP2144.03 (C). Applicants did not so point out. The examiner is not required to demonstrate that the facts noticed are in fact capable of instant and unquestionable demonstration absent a proper challenge. Doing so would defeat the purpose of using Official Notice. The common knowledge or well-known in the art statements are taken to be admitted prior art because applicants' traverse was inadequate. MPEP2144.03 (C).

Second, as to Applicants' challenge that the purposes of the 3 references cited are different than that of Applicants' invention, a bulletin board system, it is noted that "Although references do not disclose or suggest the existence of applicants' problem or its cause, claims are rejected under 35 U.S.C. 103 since references suggest a solution to problem; it is sufficient that references suggest doing what applicants did, although they do not teach or suggest exactly why this should be done, other than to obtain the expected superior beneficial results." *In re Gershon, Goldberg, and Neiditch*, 152 USPQ 602 (CCPA 1967).

Further, "Fact that two disclosed apparatuses would not be combined by businessmen for economic reasons is not same as saying that it could not be done because skilled persons in art felt that there was some technological incompatibility that prevented their combination; only latter fact is telling on nonobviousness issue. "*Orthopedic Equipment Company, Inc. et al. v. United States*, 217 USPQ 193 (CA FC 1983).

and "... law of obviousness does not require that references be combined for reasons contemplated by inventor, but only looks to whether some motivation or suggestion to combine references is provided by prior art taken as whole." *In re Beattie*, 24 USPQ2d 1040 (CA FC 1992).

Third, the cited limitations referring to a bulletin board is using "bulletin board" as a name only. In other words nothing distinguishes the bulletin board from any other website (a collection of webpages). Such equivalent websites, providing all the functionalities claimed, are disclosed by the combination of the references cited. The term "bulletin board" in the following relevant limitations, such as "receiving a customer request for displaying the bulletin board" "transmitting bulletin board rendering data" "receiving by the server a customer request to enter a page in the bulletin board" "transmitting a bulletin board form to the client" can be replaced with a "website" and all the functionalities claimed would have been performed by the combination of references as applied.

Ex parte Pfeiffer, 135 USPQ 31 (BdPatApp&Int 1961) held: "As to the rejection of the claims on the prior art references, we do not agree with the appellant that such structural

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limitations as are not disclosed by the references should be given patentable weight. This argument is applicable to claims drawn to structure and not claims drawn to a method. To be entitled to such weight in method claims, the recited structural limitations therein must affect the method in a manipulative sense and not to amount to the mere claiming of a use of a particular structure, which, in our opinion, is the case here."

In this case, there does not seem to be any impact on the manipulative steps of the method because of the type of website being a bulletin board. Thus, the name of the website being a bulletin board does not seem to functionally change the actions required by the steps.

In other words, what does it mean to have a "bulletin board" in this instance? A Bulletin board system is an electronic message center. Most bulletin boards serve specific interest groups. They allow users to dial in, review messages left by others, and leave their own messages. Here, there are no claims that the users posts any messages other than voting and no special interests are served, no retrieval by users' (such as the voting users) of each others' messages. Thus the bulletin board is a "bulletin board" in name only when it is used as a website to allow contributors to be rated and voters to vote.

Further, even if the bulletin board can be said to impact the method, Applicants are referred to the prior art cited in the conclusion below which also shows obviousness.

Fourth, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). The PTO can satisfy the burden under section 103 to establish a prima facie case of obviousness "by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to

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combine the relevant teachings of the references.” *In re Fine*, 5 USPQ2d 1596 (CA FC 1988). Here the reasons to combine the references, as discussed above, come either explicitly from the references (e.g. Snap.com) or from knowledge generally available to one of ordinary skill in the art.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

DIALOG (R) File 471 Record 03944598, E-commerce Report; Consumer products are being reviewed on more Web sites,some featuring comments from anyone with an opinion. by Bob Tedeschi, New York Times, Late Edition - Final ED, COL 01, page 16 Monday October 25 1999,
discloses product reviewers (pundits) being rated. Pundits are rewarded to incent them to contribute (p. 1, 5th paragraph). Pundits earn royalties for every 10 times their reviews are read. Database of reviews (articles) and interface for allowing voting of those opinions are implied.

DIALOG(R) File 647, Record # 01204408
User Review - Your Opinions Are Highly Valued On the Web (Industry Watch)
by Amy D. Wohl, VARBUSINESS, 1999, n 1528, PG69,
discloses Epinions. com
offering opinions on a wide variety of products and topics. Users rate the opinions on wide range of products and topics. Users rate the opinions based on usefulness
Opinion authors are rewarded by having highly rated opinions shown at the top of a search. That's important, because the first opinions shown are the ones most often read, and Epinions rewards authors with 1 cent to 3 cents for every page viewed.

DIALOG @ File 16, record # 06705735

What's Your Epinion?; On Epinions .com, read product reviews by regular folks, then post you own. (Company Business and Marketing) by Barrett, Alexandra Network World, PNA, Sept 13, 1999, discloses Epinions rating the raters cash awards systems.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications. Any inquiry of a general

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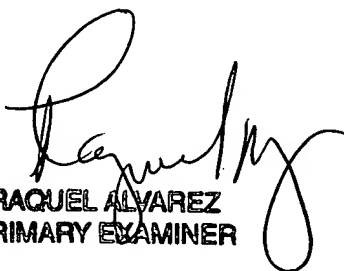
nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 12, 2005

KHL

KHL


RAQUEL ALVAREZ
PRIMARY EXAMINER